

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JESSE ROSEN,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
HEALTH AND HOSPITALS CORPORATION, PRISON
HEALTH SERVICES, INC., MARTIN F. HORN,
Commissioner of the New York City Department of
Correction, OFFICER JOHN DOE, said name being
fictitious, being intended to designate the City of New
York Correction Officer designated herein, OFFICER
RICHARD ROE, said name being fictitious , being
intended to designate the City of New York Correction
Officer involved in the action herein, and JOHN DOE,
M.D., said name being fictitious, being intended to
designate the physician involved in the action herein,

Defendants,

**DECLARATION OF
JORDAN M. SMITH**

07 Civ. 6721 (U.S. District Court
for S.D.N.Y.)

Index No. 16753/07 (Supreme
Court of the State of New York,
Bronx County)

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JORDAN M. SMITH, declares pursuant to 28 U.S.C. § 1746, under penalty of
perjury, that the following is true and correct.

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants City of New York, New York City Health and Hospital Corporation and Martin F. Horn. As such, I am familiar with the facts stated below and submit this declaration in support of defendants' motion to amend the caption of the Notice of Removal which was filed on July 26, 2007.

2. The Notice of Removal has now been assigned docket number 07 Civ. 6721 by the Clerk of the Court of the United States District Court for the Southern District of New York.

3. Upon information and belief, 07 Civ. 6721 has not yet been formally assigned to a judge; however, it has been referred to United States District Judge Victor Marrero as possibly related to Jesse Rosen v. City of New York, et al., 07 Civ. 6018 (VM).

4. Defendants' July 26, 2007, Notice of Removal erroneously lists "Index No. 112185/2005 (Supreme Court of the State of New York, Bronx County)" as the index number of the action which defendants seek to remove from state court.

5. In fact, the index number of the action which defendants seek to remove is 16753/07 in the Supreme Court of the State of New York, Bronx County.

6. Other than the erroneous index number in the caption, all references to the state court action in defendants' July 26, 2007, Notice of Removal, correctly identify the index number as 16753/07 in the Supreme Court of the State of New York, Bronx County.

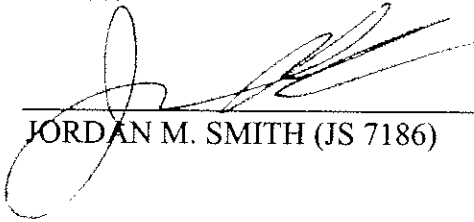
7. Defendants included a copy of the summons and complaint from Jesse Rosen v. City of New York, et al., Index No. 16753/07 in the Supreme Court of the State of New York, Bronx County, as Exhibit A to their July 26, 2007, Notice of Removal.

8. Defendants respectfully submit that, notwithstanding the error in the caption of the Notice of Removal, it was clear to plaintiff which action defendants sought to remove from state court to this District Court.

Dated: New York, New York
August 6, 2007

MICHAEL A. CARDOZO
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City of New York
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BY:



JORDAN M. SMITH (JS 7186)